

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Case No. 5:20-CV-00634-M

CHEMIA HOLLAND, )  
                          )  
Plaintiff,            )  
                          )  
v.                     )  
                          )  
RYAN D. McCARTHY,    )  
Secretary of the Army,    )  
                          )  
Defendant.            )

**ORDER**

Before the court is a Memorandum and Recommendation (“M&R”) of United States Magistrate Kimberly A. Swank [DE 5], in which Judge Swank recommends dismissing this case without prejudice for the *pro se* Plaintiff’s failures to comply with an order to correct deficiencies and to prosecute this case. Plaintiff filed an objection to the M&R, together with several documents reflecting her attempt to comply with the order concerning deficiencies. *See* DE 8-12.

“The Federal Magistrates Act requires a district court to make a *de novo* determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); *see* 28 U.S.C. 636(b). Absent timely objection, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond*, 416 F.3d at 315 (citation and quotation omitted).

In her objection, Plaintiff asserts that she did not intend to miss the court’s deadline and explains that she had emergency surgery on her left eye. The court finds that Plaintiff’s

explanation constitutes both good cause to extend the deadline to correct deficiencies and excusable neglect in failing to timely comply with the court order. See Fed. R. Civ. P. 6(b)(1). However, the court notes that Plaintiff has failed to properly address her summonses to the U.S. Attorney General and the U.S. Attorney Civil Process Clerk as directed in the order. *See* DE 4, 11. The court directs the Clerk of the Court to provide Plaintiff with additional summons forms to allow her to submit corrected summonses.

In addition, the court has reviewed Plaintiff's application to proceed in this court without prepaying fees or costs and, in accordance with 28 U.S.C. § 1915(a), finds Plaintiff meets the requirements for proceeding *in forma pauperis* ("IFP") in this case.

Based on the foregoing, the court will decline to adopt the recommendation of Magistrate Judge Swank [DE 5], GRANT the Plaintiff's application to proceed IFP [DE 1], and order the Plaintiff to file corrected proposed summonses on or before February 10, 2021.

SO ORDERED this 2<sup>d</sup> day of February, 2021.

  
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RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE